BEST COPY
AVAILABLE

MT LEGISLATIVE HISTORY

Chapter 130 1989

Bill H _____ (S) 135 Original bill & hist. ___C

H. Committee on Judiciary		S. Committee on Judiciary	
Hearing Date(s) Mar 03	✓C	Hearing Date(s) Jan 19	✓C
_____	___C	Jan 20	✓C
_____	___C	_____	___C
_____	___C	_____	___C
Date Out Mar 03	✓C	Jan 20	✓C

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

MINUTES

MONTANA SENATE
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By Chairman Bruce Crippen on January 19, 1989, at 10:00 A.M. in Room 325.

ROLL CALL

Members Present: Chairman Bruce Crippen, Vice Chairman Al Bishop, Senators Tom Beck, Mike Halligan, Bob Brown, Bill Yellowtail, Joe Mazurek, Loren Jenkins, R. J. "Dick" Pinsoneault, John Harp.

Members Excused: NONE

Members Absent: NONE

Staff Present: Valencia Lane, Staff Attorney; Rosemary Jacoby, Secretary

Announcements/Discussion: There was none.

HEARING ON SB 135

Presentation and Opening Statement by Sponsor:
Senator Mike Halligan, District 29, presented SB 135. He said the bill was brought to his attention as a result of some District Court decisions on bankruptcy. Senator Halligan said he was Chairman of the Lien Law Study two years ago and some strong compromises and negotiations were built with the banking and financial communities on exemptions. One of the things done was to clarify what you can execute on as far as personal property and what is exempt.

List of Testifying Proponents and What Group they Represent:

Bob Pyfer, Montana Credit Unions League
Ralph Kircher, Attorney from Missoula

List of Testifying Opponents and What Group They Represent:
None

Testimony:
Bob Pyfer testified in support of SB 135. He informed the committee that the Credit Unions League had been

involved with both the study committee and with the hearings during the past Legislature concerning HB 19. SB 135 clarifies the original intent. (Exhibit 1)

Ralph Kircher testified in support of the bill. He said the current situation given interpretations by Judge Peterson indicated that the current statute is stacked so the 3,000 can be used for each subclassification. In preparing some of the briefs and decisions rendered by Judge Peterson, it appears that the Legislature in 1987 did not intend that there was an aggregate for 3,000. He suggested the committee consider if that was the intent. Also, the committee should consider the definitions for implements vs. tools of the trade. He pointed out the problem in the definitions when tools exempted by the debtors, especially in bankruptcy context, are interchanging those terms. (Example: An implement that is a tractor, and a tool of the trade that is a tractor.)

Questions From Committee Members: None

Closing by Sponsor: Senator Halligan closed.

HEARING ON SB 122

Presentation and Opening Statement by Sponsor:
Senator Dennis Nathe, District 10, presented SB 122. He said this bill was an act revising the statute of limitations for the prosecution of child sexual abuse crimes. He pointed out that with the present law any prosecution of a sexual abuse crime had to take place within 5 years of the act. This causes a problem with younger children where they may have to bring charges against a parent or step parent in their own household. They are not emotionally, financially or independent enough to bring those charges. Consequently, it places the prosecution of such crimes in a tough spot because the children are reluctant to come forward at that age. The bill would raise that age up to 18 and then extend that for 5 years after 18. In that way, it would give that individual who was sexually abused a chance to become independent from the situation in which that abuse occurred.

List of Testifying Proponents and What Group they Represent:
Jeanne Kemmis, Parents Anonymous of Montana
Marc Racicot, Attorney General of Montana
Dr. Janet Allison, Ph.D
Steve Waldron, Montana Council of Mental Health Centers
Ron Silvers, Sexual Assault T. P.

ROLL CALL

JUDICIARY COMMITTEE

51st LEGISLATIVE SESSION -- 1989 Date Jan. 19

NAME	PRESENT	ABSENT	EXCUSED
SENATOR CRIPPEN	✓		
SENATOR BECK	✓		
SENATOR BISHOP	✓		
SENATOR BROWN	✓		
SENATOR HALLIGAN	✓		
SENATOR HARP	✓		
SENATOR JENKINS	✓		
SENATOR MAZUREK	✓		
SENATOR PINSONEAULT	✓		
SENATOR YELLOWTAIL	✓		

Each day attach to minutes.

EXHIBIT 1

DATE 1/17/97 SB 135

NAME: Robert (Bob) Pyfer DATE: 1/17/97

BILL NO.

ADDRESS: 1236 Helena Ave, Helena MT 59601

PHONE: 442-9081

REPRESENTING WHOM? Montana Credit Unions League

APPEARING ON WHICH PROPOSAL: SB 135

DO YOU: SUPPORT? ✓ AMEND? _____ OPPOSE? _____

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

SENATE BILL 108

Discussion of the bill included comments that the people from Great Falls wanting to add the option of hanging for persons to be executed and the fact that preparations for conducting a hanging took longer than for lethal injections.

Ms. Kradolfer said the bill provides that a person must make a choice of type of execution. Senator Crippen said he had a problem with the defendant having to make that choice at the time of his sentencing because it was an emotional time, and felt he should be given some time to make the decision.

Senator Beck asked if the judge decided when the sentencing would take place. Ms. Kradolfer said there was a statutory limit of 60 days for review. She said the department was happy with the bill as drafted.

Senator Pinsoneault MOVED that SENATE BILL 108 DO PASS. The MOTION CARRIED by a vote of 8 to 2, with Senators Beck and Crippen VOTING NO.

SENATE BILL 135

Senator Halligan MOVED that SENATE BILL 135 DO PASS. The MOTION CARRIED by a vote of 8 to 2, with Senators Mazurek and Crippen VOTING NO.

SENATE BILL 122

Senator Harp MOVED the Mazurek Amendments (Exhibit 8) presented to the committee at a previous meeting. Valencia explained them. The MOTION CARRIED UNANIMOUSLY.

Senator Harp MOVED that Senate Bill 122 DO PASS AS AMENDED. The MOTION CARRIED UNANIMOUSLY.

SENATE BILL 106

Senator Halligan MOVED that Senate Bill 106 DO PASS. The MOTION CARRIED UNANIMOUSLY.

ROLL CALL

JUDICIARY COMMITTEE

51st LEGISLATIVE SESSION -- 1989 Date Jan. 20, 198

NAME	PRESENT	ABSENT	EXCUSED
SENATOR CRIPPEN	✓		
SENATOR BECK	✓		
SENATOR BISHOP	✓		
SENATOR BROWN	✓		
SENATOR HALLIGAN	✓		
SENATOR HARP	✓		
SENATOR JENKINS	✓		
SENATOR MAZUREK	✓		
SENATOR PINSONEAULT	✓		
SENATOR YELLOWTAIL	✓		

Each day attach to minutes.

STANDING COMMITTEE REPORT

January 20, 1989

MR. PRESIDENT:

We, your committee on Judiciary, having had under consideration SB 135 (first reading copy -- white), respectfully report that SB 135 do pass.

DO PASS

Signed: Bruce D. Crippen, Chairman

Y.C. 1989
120
4:14 P.M.

SENATE BILL 135

ROLL CALL VOTE

SENATE COMMITTEE JUDICIARY

Date 1-20-89 Senate Bill No. 135 Time 3

NAME	YES	NO
SEN. BISHOP	✓	
SEN. BECK	✓	
SEN. BROWN	✓	
SEN. HALLIGAN	✓	
SEN. HARP	✓	
SEN. JENKINS	✓	
SEN. MAZUREK		✓
SEN PINSONEAULT	✓	
SEN.YELLOWTAIL	✓	
SEN. CRIPPEN		✓
	8	2

Rosemary Jacoby
Secretary

Sen. Bruce Crippen
Chairman

Motion: Do Pass- Halligan

SF-3 (Rev. 1987)

Opponent Testimony:

None.

Questions From Committee Members: None.

Closing by Sponsor: Sen. Halligan commented that the fees that will be required to pay as every doctor and health care facility and currently paying are already anticipated by the students and by the health care facilities. There are fees that are levied to operate the panel and they have already been considered by Dr. Curry at the infirmary.

DISPOSITION OF SENATE BILL 12

Motion: A motion was made by Rep. Eudaily to BE CONCURED IN, motion seconded by Rep. Gould.

Discussion: None.

Amendments, Discussion, and Votes: None.

Recommendation and Vote: A vote was taken and CARRIED unanimously that SB 12 BE CONCURED IN.

HEARING ON SENATE BILL 135

Presentation and Opening Statement by Sponsor:

Senator Mike Halligan stated that when a person files bankruptcy they must go to a federal court. The intent of the exemption committee and lien law is to balance the federal changes other states around us, as far as the exemptions go, and make it a $3,000.00 plan for implements, professional books and tools. Sen. Halligan stated that the purpose of SB 135 is to make clear what the committee intended to do and add the word "aggregate".

Testifying Proponents and Who They Represent:

Bob Pyfer, Vice President, Montana Credit Unions League

Proponent Testimony:

Bob Pyfer stated to the committee that he was involved in the interim committee and voiced his support of SB 135.

Testifying Opponents and Who They Represent:

None.

Opponent Testimony:

None.

Questions From Committee Members: None.

Closing by Sponsor: Sen. Halligan closed.

DISPOSITION OF SENATE BILL 135

Motion: A motion by Rep. Gould was made that SB 135 BE CONCURED IN, motion seconded by Rep. Eudaily.

Discussion: None.

Amendments, Discussion, and Votes: None.

Recommendation and Vote: A vote was taken and CARRIED unanimously that SB 135 BE CONCURED IN.

ADJOURNMENT

Adjournment At: 9:35 a.m.

Dave Brown

REP. DAVE BROWN, Chairman

DB/je

5008.min

DAILY ROLL CALL

JUDICIARY COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date MARCH 3, 1989

NAME	PRESENT	ABSENT	EXCUSED
REP. KELLY ADDY, VICE-CHAIRMAN			X
REP. OLE AAFEDT	X		
REP. WILLIAM BOHARSKI	X		
REP. VIVIAN BROOKE	X		
REP. FRITZ DAILY			X
REP. PAULA DARKO	X		
REP. RALPH EUDAILY	X		
REP. BUDD GOULD	X		
REP. TOM HANNAH	X		
REP. ROGER KNAPP	X		
REP. MARY McDONOUGH	X		
REP. JOHN MERCER	X		
REP. LINDA NELSON	X		
REP. JIM RICE	X		
REP. JESSICA STICKNEY	X		
REP. BILL STRIZICH	X		
REP. DIANA WYATT	X		
REP. DAVE BROWN, CHAIRMAN	X		

CS-30

STANDING COMMITTEE REPORT

March 3, 1989

Mr. Speaker: We, the committee on Judiciary report that SENATE BILL 135 (REFERENCE copy -- blue) be concurred in .

Signed: _____

Dave Brown, Chairman

[REP. MERCER WILL CARRY THIS BILL ON THE HOUSE FLOOR]

VISITORS' REGISTER

JUDICIARY COMMITTEE

BILL NO. SENATE BILL 135 DATE March 3, 1989

SPONSOR SEN. HALLIGAN

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
Bob Pyfer	MT Credit Unions League	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.